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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 JIMMY LEROY RAMSEYER,

11 Petitioner,

12 v.

13 PAT GLEBE,

14 Respondent.

CASE NO. C12-5317 BHS-JRC

REPORT AND RECOMMENDATION TO
DENY IN FORMA PAUPERIS STATUS

NOTED FOR: MAY 18, 2012

15 The District Court referred this 28 U.S.C. § 2254 petition for a writ of habeas corpus to
16 United States Magistrate Judge J. Richard Creatura. The authority for the referral is 28 U.S.C. §
17 636(b) (1) (A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

18 Because petitioner has funds, the Court recommends that petitioner's motion to proceed
19 in forma pauperis be denied and petitioner be given thirty days to pay the five dollar filing fee. If
20 the fee is not paid the Court recommends that the petition be dismissed.

21 Petitioner's certified trust account statement shows a balance of one hundred and fifty-
22 one dollars and forty-seven cents. Petitioner's spendable balance as of March 31, 2012, was one
23 hundred and eight dollars and ninety-seven cents.
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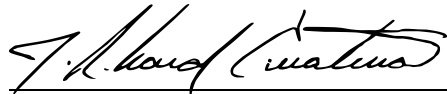
1 Petitioner can afford to pay the full five dollar filing fee.

2 The right to proceed in forma pauperis is not absolute and denial of in forma pauperis
3 status is reviewed for abuse of discretion. Denardo v. Collum, 48 F.3d 1227 (9th Cir. 1995).
4 Further, the Ninth Circuit addressed the denial of in forma pauperis status over forty years ago
5 and held that proceeding in forma pauperis is a matter within the sound discretion of the trial
6 court in civil actions. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963). Here, petitioner has funds
7 and can afford the fee. The Court recommends that the motion to proceed in forma pauperis be
8 denied.

9 Petitioner should be given thirty days to pay the full five dollar filing fee. The Court
10 recommends that failure to pay that fee result in dismissal.

11 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
12 fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P.
13 6. Failure to file objections will result in a waiver of those objections for purposes of de novo
14 review by the district judge. See 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit
15 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on May
16 18, 2012, as noted in the caption.

17 Dated this 19th day of April, 2012.

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19 J. Richard Creatura
20 United States Magistrate Judge
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